

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:11-CV-138-RJ

PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Plaintiff,

v.

JANET NEWTON and RONDA
BEHELER,

Defendants.

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ORDER APPROVING SETTLEMENT
AND DISMISSAL

This matter is before the court on the Joint Motion for Order Approving Individual Settlement [DE-28] (“Joint Motion”) and Agreed Stipulation [DE-28-1] (“Stipulation”) by Defendant Janet Newton and Defendant Ronda Beheler (collectively “the Parties”). A telephonic hearing was held October 31, 2011, to discuss the terms of settlement at which Ronda Beheler appeared and Janet Newton appeared through her counsel of record, Attorney Coy Brewer.

The court makes the following findings of facts, conclusions of law and orders the following, pursuant to the parties’ Joint Motion, Stipulation and upon the representations by the parties at the hearing:

1. The subject matter of this civil action arises under interpleader and concerns a dispute among Defendants as to which Defendant is entitled to the proceeds of a life insurance policy.
2. This court has subject matter jurisdiction over the dispute pursuant to 28 U.S.C. § 1335 because there is diversity of citizenship between two or more of Defendants and

the amount in controversy exceeds \$500.00. Venue is proper in the Eastern District of North Carolina pursuant to 28 U.S.C. § 1397 because it is the judicial district in which one of Defendants resides.

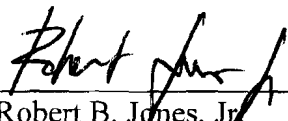
3. The parties have consented to the jurisdiction of the magistrate judge to conduct all case proceedings and order the entry of judgment in accordance with 28 U.S.C. § 636(c)(1) and Fed. R. Civ. P. 73. [DE-15].
4. Plaintiff Prudential Insurance Company of America (“Prudential”) issued a life insurance policy (“policy”) on the life of the insured, Ronald Newton (the “Insured”). According to the policy, the benefit payable upon the death of the Insured is \$30,687.17 (the “Death Benefit”). On or about August 27, 2010, the Insured changed the primary beneficiary under the policy to Ronda Beheler. The Insured died in North Carolina on or about October 23, 2010. On or about October 26, 2010, Defendant Newton submitted a letter to Prudential advising Prudential that the Insured was not competent as of September 8, 2010, and that prior to that date the Insured was hospitalized and confused during much of that period of time. Defendant Janet Newton and Defendant Ronda Beheler each submitted a claim to Prudential for the Death Benefit payable under the policy.
5. Prudential claims no interest in the Death Benefit payable under the policy.
6. On September 13, 2011, upon consent order, Prudential was dismissed from this action with prejudice upon depositing the Death Benefit, including any accrued interest, into the Clerk of Court. [DE-25]. The Death Benefit, including accrued interest, was deposited into an interest bearing account with the Clerk of Court on

September 26, 2011, in the amount of \$31,528.52 ("Principal Amount"). The Death Benefit has accrued interest while on deposit with the Clerk of Court.

7. Defendant Janet Newton is represented by attorney Coy Brewer of Coy E. Brewer, Attorney at Law, PLLC. Defendant Ronda Beheler is *pro se*.
8. The parties have agreed to settle all matters which are, or might have been, adjudicated in this civil action.
9. All parties are properly before the court; no questions exist as to misjoinder or nonjoinder of parties and the court has jurisdiction over the subject matter and the parties.
10. There are no other beneficiaries, or persons claiming to be beneficiaries, to the life insurance policy or the Death Benefit at issue in this case.
11. The pleadings in this action state a claim for which relief may be granted.
12. The Joint Motion and Stipulation by the parties are incorporated into this order by reference.
13. In the opinion of the parties and counsel, the settlement and dismissal is fair and reasonable.
14. Therefore, upon consent of the parties, for good cause shown, the Joint Motion for Order Approving Settlement [DE-28] is ALLOWED. Accordingly, the Clerk of Court is DIRECTED to disburse the principal amount of the Death Benefit, \$31,528.52 plus interest accrued while on deposit in the registry, minus the registry fee in the following manner:

- a. A check made payable to Janet Newton and Coy E. Brewer, Attorney at Law, PLLC in an amount equal to 46% of the principal amount plus interest; and
 - b. A check made payable to Ronda Beheler in an amount equal to 54% of the principal amount plus interest.
15. It is ordered further and pursuant to Fed. R. Civ. P. 41 that all claims in this action are DISMISSED WITH PREJUDICE and the clerk is DIRECTED to close the case.

SO ORDERED, this the 1st day of November, 2011.


Robert B. Jones, Jr.
United States Magistrate Judge